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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION
15

16 ASETEK DANMARK A/S

17 Plaintiff,

18 v.

19 NEWEGG INC., NEWEGG NORTH
20 AMERICA INC.,

21 Defendants.

CASE NO. 3:16-CV-07068-JST

**ASETEK'S CLAIM CONSTRUCTION
AND PREHEARING STATEMENT
(PATENT L.R. 4-3)**

1 **1. Introduction**

2 The parties have exchanged settlement agreements and are close to reaching agreement on
3 settlement terms that will resolve their dispute. Asetek sent Newegg a proposed written settlement
4 agreement on August 8, 2017, and on August 25, 2017 (the date this statement is being filed),
5 Newegg responded with a few comments.

6 Asetek is filing this claim construction and prehearing statement on its own because Newegg
7 has not been participating in the claim construction exchange process, presumably due to the
8 ongoing settlement negotiations. Newegg did not serve Invalidity Contentions (Pat. L.R. 3-3) or the
9 accompanying document production (Pat. L.R. 3-4). Newegg neither served a list of claim terms for
10 construction (Pat. L.R. 4-1) nor their proposed constructions (Pat. L.R. 4-2). (Asetek served
11 Newegg with its Patent L.R. 4-1 and 4-2 disclosures (copy attached as Exhibit A hereto)).

12 Pursuant to Patent L.R. 4-3 and this Court's scheduling order (ECF No. 47), Asetek submits
13 its Claim Construction and Prehearing Statement with respect to U.S. Patent Nos. 8,240,362 and
14 8,245,764.

15 **2. Agreed Claim Constructions (Patent L.R. 4-3(a))**

16 None. Because Newegg has not been participating in the claim construction process, Asetek
17 does not know Newegg's positions on claim construction.

18 **3. Proposed Constructions of Disputed Terms (Patent L.R. 4-3(b))**

19 Because Newegg did not serve disclosures under Patent Local Rules 4-1 and 4-2, Asetek
20 requests the Court adopt Asetek's proposed constructions included in its Patent Local Rule 4-2
21 disclosure (Exhibit A).

22 **4. Identification of Terms for Construction (Patent L.R. 4-3 (c))**

23 Asetek requests the Court adopt Asetek's proposed constructions for each of the terms
24 identified in its Patent Local Rule 4-2 disclosure, attached as Exhibit A.

25 **5. Anticipated Length of Claim Construction Hearing (Patent L.R. 4-3 (d))**

26 The Court has set the Claim Construction Hearing for November 7, 2017, starting at 1:30 pm.
27 ECF No. 47 (the same date and time as in the *Asia Vital Components Co. v. Asetek Danmark A/S*,
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Case No. 3:16-cv-7160-JST (N.D. Cal.)). Because Newegg did not identify proposed terms or proposed constructions, Asetek does not believe a Markman hearing is necessary in this action.

6. Anticipated Witnesses at the Claim Construction Hearing (Patent L.R. 4-3(e))

Asetek does not anticipate calling witnesses at the Claim Construction Hearing, if held.

7. Identification of Factual Findings Requested from the Court (Patent L.R. 4-3(f))

Asetek does not anticipate requesting any factual findings from the Court.

Dated: August 25, 2017

By: /s/ Robert F. McCauley
Robert F. McCauley
Attorneys for Plaintiff
ASETEK DANMARK A/S